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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 AMERICAN CIVIL LIBERTIES UNION
8 OF WASHINGTON,

9 Plaintiff,

10 v.

11 U.S. DEPARTMENT OF JUSTICE,

12 Defendant.

No. C09-0642RSL

ORDER GRANTING THIRD
MOTION FOR RECONSIDERATION

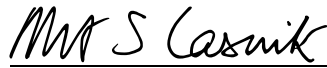
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14 On September 21, 2012, the Court issued an order following *in camera* review
15 requiring disclosure of certain information. Defendant sought reconsideration, arguing that it
16 had additional classified information regarding the applicability of Exemption 1 that it had not
17 yet provided, apparently in the belief that it would be given an opportunity to present a witness
18 to further explain the documents and their import.

19 Although this is a very close call given that defendant failed to mention the
20 existence of any additional information until after disclosure had been ordered, the Court will err
21 on the side of caution. The motion for reconsideration is therefore GRANTED to the extent that
22 defendant will be permitted to deliver to chambers an *ex parte* declaration addressing the
23 applicability of Exemption 1 to Document Nos. 79, 80, and 84. Per the suggestion of the
24 Classified Information Security Officer assigned to this case, a printed electronic copy of the
25 declaration and/or other classified information shall be transmitted via classified channels
26 through the U.S. Attorney's office in Seattle for hand-delivery directly to chambers within

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1 fourteen days of the date of this order. The submission shall be sealed and clearly marked “For
2 *In Camera* Review – Judge’s Eyes Only.” Neither Mr. Hardy nor the Classified Information
3 Security Officer need appear in chambers.

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5 Dated this 20th day of November, 2012.

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7 Robert S. Lasnik
8 United States District Judge
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